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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,093	11/29/2001	Paul E. Juras	61856	4334

109 7590 10/20/2003

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

EXAMINER

CHANG, VICTOR S

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/998,093	JURAS ET AL.	
	Examiner	Art Unit	
	Victor S Chang	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: |

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DETAILED ACTION

1. The Examiner has carefully considered Applicant's amendments and remarks filed on 8/25/2003. Applicant's amendments to the claims 1, 2, 4 and 6 have all been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Rejections not maintained are withdrawn.

Claim Objections

4. Claims 2, 6 and 8 are objected to because of the following informalities:

For claims 2, 6 and 8, the Examiner suggests to re-write each claim in proper Markush format. A proper Markush format is "wherein R is a material selected from the group consisting of A, B and C." See MPEP § 2173.05(h).

Appropriate correction is required.

Response to Amendment

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thum (US 5194199) either individually, or in view of Newton (US 3581681), substantially for the reasons set forth in section 4 of Paper No. 5, together with the following additional observations.

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With respect to Applicants' response arguing that "The Official Action does not contain any evidence that molded shells are known in the context of foam inserts ... which are useful in improving the structural integrity of a vehicle" (Remarks, page 6, second full paragraph), the Examiner repeats (see Paper No. 5, page 3) that it is believed that forming a light weight composite of polymer shell and foam core is old and well known. Note also as state of the art of Johnson et al. (US 3859162), which is directed to composite structures. Johnson teaches that "reinforced composite foam structures have long been known in the prior art. These have generally been prepared by providing a polymeric shell ... and subsequently filling the shell with a syntactic or blown foam" (column 3, lines 5-10).

With respect to Applicants' response arguing that "Newton reference makes no reference to structural reinforcement parts used in automobiles. Nor does it teach covering the pallet with an expandable adhesive" (Remarks, pages 6-7, bridging paragraph), the Examiner notes that Applicant argues the cited references individually. In response to Applicant's arguments, it is asserted that one cannot show non-obviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With respect to Applicants' argument that "Newton relates to a pallet system and not to structural reinforcing inserts" and "the Examiner has provided no teaching in Thum or Newton or any third reference which would suggests to one skilled in the art that the teachings of Thum an Newton could be read together" (Remarks, page 7), the

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Examiner notes that although Newton is silent about the use of the article as structural reinforcing inserts, Newton expressly teaches that the invention is directed to a light weight structure for load bearing (column 1, lines 33-34), and it is believed that a load bearing is an inherent property of a structural reinforcing article. As such, Thum and Newton are combinable because they are from the same field of endeavor, i.e., a structural article for load bearing. As such, the Examiner repeats (see Paper No. 5, page 4, bottom paragraph) that it would have been obvious to one of ordinary skill in the art to modify Thum's prefabricated reinforcing core of light-weight material with a light weight composite of molded shell and foam core, as taught by Newton, motivated by the desire to obtain a shaped core in the general configuration to fit the hollow metal member, and a good bonding between the shell and the core (Newton, column 2, lines 65-68).

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S Chang whose telephone number is 703-605-4296. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

VSC

DANIEL ZIRKER
PRIMARY EXAMINER
GROUP 1300
1700

Daniel Zinker